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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,780	04/02/2004	Timothy A.M. Chuter	12730/253	9975

48003 7590 07/18/2007  
BRINKS HOFER GILSON & LIONE/CHICAGO/COOK  
PO BOX 10395  
CHICAGO, IL 60610

EXAMINER
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WOO, JULIAN W

ART UNIT	PAPER NUMBER
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3731

MAIL DATE	DELIVERY MODE
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07/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/816,780

Applicant(s)

CHUTER, TIMOTHY A.M.

Examiner

Julian W. Woo

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-18 and 22-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-18 and 22-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 12-18, 24, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Bynon et al. (5,667,523). Bynon et al. disclose, at least in figure 1, a limb or a stent comprising at least one limb having a cross sectional profile in which at least one segment is flat and straight, where each limb is comprised of two curved portions having opposite direction of curvature, an intermediate straight, flat mid-portion connecting the two curved portions, and short straight segment at each end; where the intermediate straight, flat mid portion is angled with respect to the short, straight segments at each end in an expanded state, where the stent has been provided with at least one strut in order to augment expansion, where the stent has been provided with a multiplicity of struts to supplement each of the limbs, where the stent comprises a multiplicity of identical limbs or wires in order form a cylindrical structure, where the overall length of the stent is a multiple of the overall diameter of the cylindrical structure, and where the end of at least one limb is provided with a hole (at 21 or a trapezoidal

Art Unit: 3731

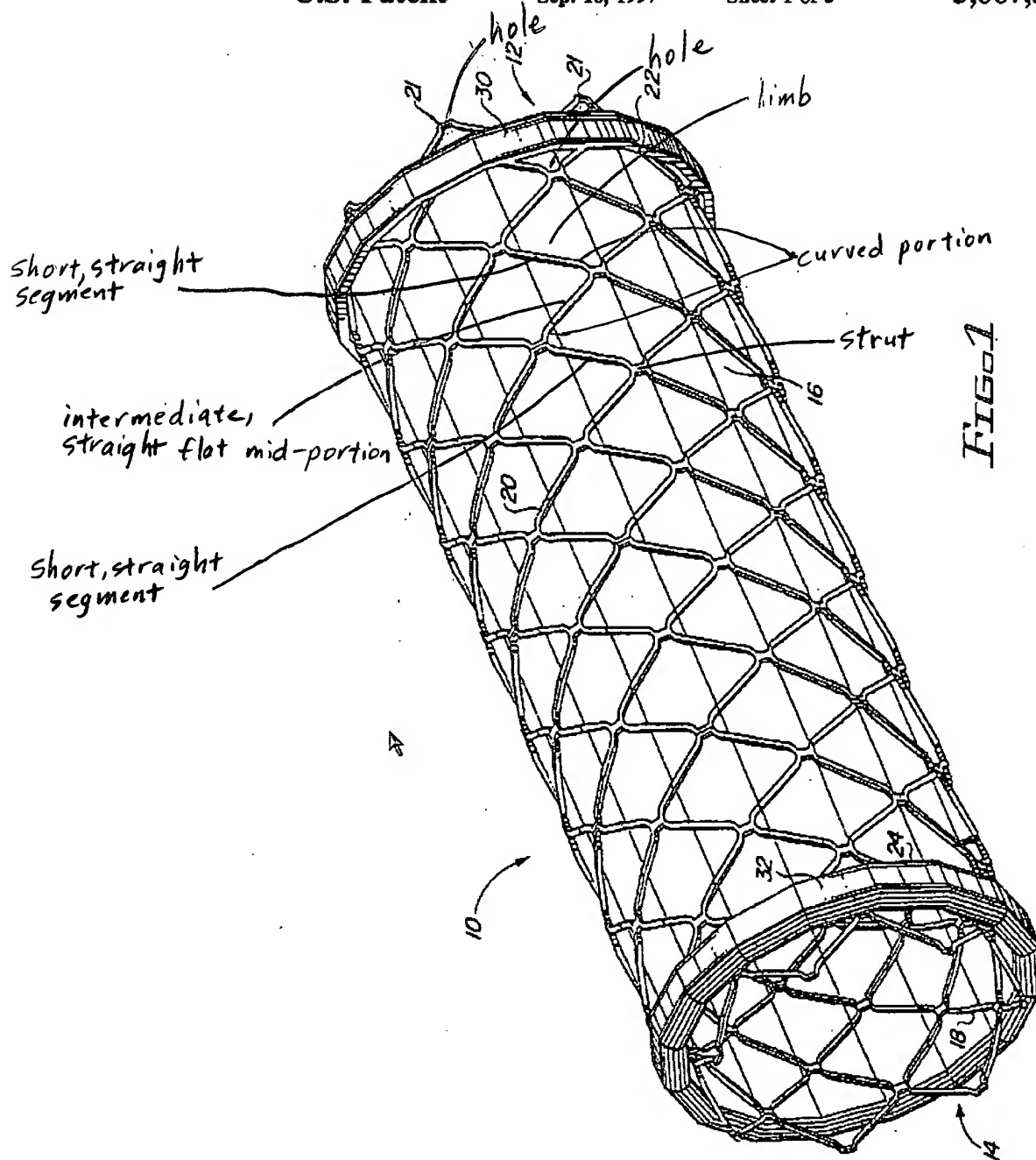
slot). See the yellow-shaded regions in the figure below for an illustration of the abovementioned limitations.

U.S. Patent

Sep. 16, 1997

Sheet 1 of 5

5,667,523

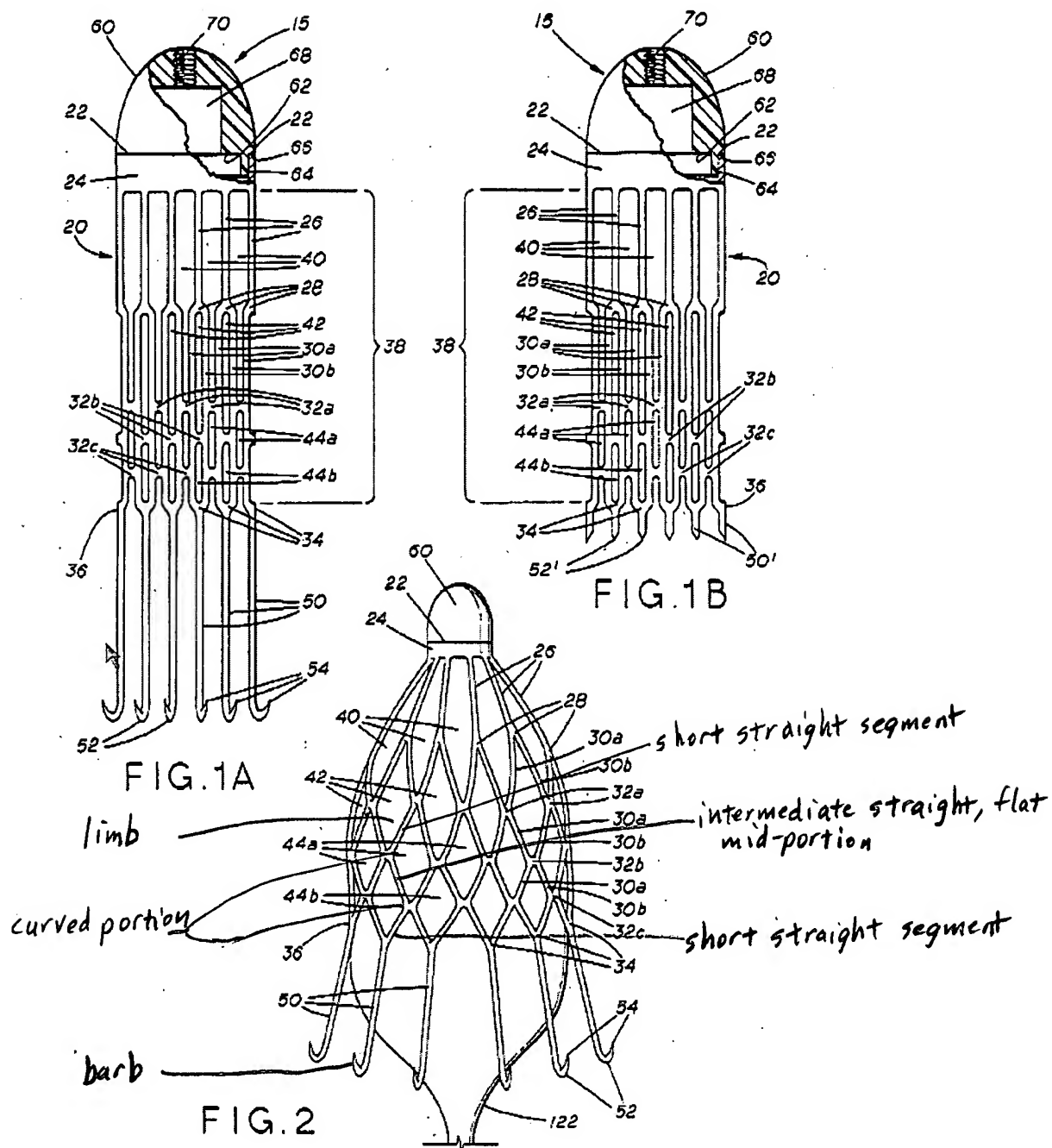


3. Claim 22 is rejected under 35 U.S.C. 102(b) as being anticipated by Palmaz (4,793,348). Palmaz discloses, at least in figure 2, a stent (20) comprising at least one limb having a cross-sectional profile in which one segment is flat and straight, where each limb is comprised of two curved portions having opposite directions of curvature, an intermediate straight, flat mid portion connecting the two curved portions, and short straight segments at each end, where the end of each limb has been provide with a barb (54). See the yellow-shaded region in the figure below for an illustration of the abovementioned limitations.

**Dec. 27, 1988**

Sheet 1 of 3

**4,793,348**



***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Palmaz (4,793,348) in view of Baker et al. (6,221,102). Palmaz discloses the invention substantially as claimed, but does not disclose that the end of each limb has been provided with a series of serrations. Baker et al. teach, at least in figure 13 and in col. 12, lines 47-65, a stent (e.g., 131) including a barb (166) including serrations (170). It would have been obvious to one having ordinary skill in the art at the time the invention was made, in view of Baker et al., to modify the barbs on the stent of Palmaz to include a series of serrations. Such a modification would inhibit withdrawal of the barbs and thus allow the stent to be more firmly secured to tissue.

***Response to Amendment***

6. Applicant's arguments with respect to claims 12-18 and 22-25 have been considered but are moot in view of the new ground(s) of rejection. That is, the Examiner's indication of allowable subject matter as presented in new claims 22-24 is hereby withdrawn.



**Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian W. Woo whose telephone number is (571) 272-4707. The examiner can normally be reached Mon.-Fri., 7:00 AM to 3:00 PM Eastern Time, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julian W. Woo  
Primary Examiner

July 10, 2007